

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
PITTSBURGH DIVISION**

ROBERT MACMICHAEL, individually,
and on behalf of all others similarly
situated,

Plaintiff,

vs.

CLEVELAND BROTHERS EQUIPMENT
COMPANY INC.,

Defendant.

RANDY THOMAS and GABRIELLE
THOMAS, individually, and on behalf of
all others similarly situated,

Plaintiffs,

vs.

CLEVELAND BROTHERS HOLDINGS,
INC.,

Defendant.

Case No. 2:23-cv-00328-WSS

Assigned for All Purposes to:
Hon. William S. Stickman IV

**STIPULATION TO TRANSFER AND
CONSOLIDATE AND [PROPOSED] ORDER**

Complaint Filed: February 27, 2023

Case No. 1:23-cv-00501-JPW

Assigned for All Purposes to:
Hon. Jennifer P. Wilson

Complaint Filed: March 22, 2023

Plaintiffs Robert MacMichael, Randy Thomas and Gabrielle Thomas (collectively, “Plaintiffs”) and Defendants Cleveland Brothers Equipment Company, Inc. and Cleveland Brothers Holding, Inc. (“Defendant” or “Cleveland Brothers”) hereby stipulate and agree to transfer the action currently pending in the U.S. District Court for the Western District of Pennsylvania and consolidate the actions in the U.S. District Court for the Middle District of Pennsylvania.

BACKGROUND

WHEREAS, on February 27, 2023, Plaintiff Robert MacMichael filed his Class Action Complaint, entitled *Robert MacMichael, individually, and on behalf of all others similarly situated v. Cleveland Brothers Equipment Company Inc.*, Case No. 2:23-cv-00328-WSS (the “*MacMichael*

Action”) in the U.S. District Court for the Western District of Pennsylvania;

WHEREAS, the *MacMichael* Action is currently pending before this Court as Case No. 2:23-cv-00328-WSS;

WHEREAS, on March 22, 2023 Plaintiffs Randy Thomas and Gabrielle Thomas filed their Class Action Complaint in this case, entitled *Randy Thomas and Gabrielle Thomas, individually, and on behalf of all others similarly situated v. Cleveland Brothers Holdings, Inc.* Case No. 1:23-cv-00501-JPW (the “*Thomas* Action”) in the U.S. District Court for the Middle District of Pennsylvania;

WHEREAS, the *Thomas* Action is currently pending before the Middle District of Pennsylvania as Case No. 1:23-cv-00501-JPW;

WHEREAS, the above-referenced Actions currently existing allege common facts and claims that arise out of the data incident which was discovered in or around November 2022. These cases share one or more of the same claims against Defendant Cleveland Brothers and the primary issues in each case revolved around the liability of Defendant Cleveland Brothers in connection with the data incident;

WHEREAS, the Plaintiffs agree these cases involve common questions of law and fact pursuant to Fed R. Civ. P. 42(a);

WHEREAS, the Plaintiffs agree the *MacMichael* Action should be consolidated into the *Thomas* Action;

WHEREAS, the Plaintiffs agree the *MacMichael* Action should be transferred to the U.S. Court for the Middle District of Pennsylvania to achieve consolidation;

WHEREAS, the Plaintiffs agree the *MacMichael* and *Thomas* Actions should be treated as related cases and consolidated for all purposes, including pre-trial proceedings and trial (“the Consolidated Action”);

WHEREAS, the Plaintiffs agree all papers filed in the Consolidated Action shall be filed under Case No. 1:23-cv-00501-JPW and shall bear the caption:

**IN RE: CLEVELAND BROTHERS
DATA INCIDENT LITIGATION**

Case No. 1:23-cv-00501-JPW

WHEREAS, the Plaintiffs agree that, following the consolidation of the *MacMichael* and *Thomas* Actions, the Plaintiffs will file and serve a Consolidated Class Action Complaint within 30 days after the Order approving Consolidation;

WHEREAS, Plaintiffs' Counsel have conferred with Defendant Cleveland Brothers' Counsel in the *MacMichael* and *Thomas* Actions, and Defendant's Counsel does not oppose.

STIPULATION

NOW, THEREFORE, THE PARTIES HEREBY STIPULATE AND AGREE as follows:

1. The *MacMichael* Action shall be moved from the U.S. District Court for the Western District of Pennsylvania to the U.S. District Court for the Middle District of Pennsylvania;
2. The *MacMichael* and *Thomas* Actions shall be consolidated before the Honorable Jennifer P. Wilson in the U.S. District Court for the Middle District of Pennsylvania, under the Case No. 1:23-cv-00501-JPW and caption "In Re: Cleveland Brothers Data Incident Litigation;"
3. Based on the foregoing, the deadlines for all current deadlines will be vacated and the Plaintiffs will file and serve a Consolidated Class Action Complaint within 30 days after the Order approving Consolidation;
3. Signing this Stipulation shall not constitute a general appearance or a waiver of any signatory's rights with respect to the disputes that are the subject of these Actions; and
4. This Stipulation shall not prejudice Counsel for Plaintiffs in seeking any appointment to a leadership position among counsel for the class action plaintiffs in the consolidated proceeding.


Dated: May X, 2023

COLE & VAN NOTE

By: /s/ Cody Bolce
Cody Bolce
Attorneys for Plaintiff Robert MacMichael

Dated: May 5, 2023

**MILBERG COLEMAN BRYSON PHILLIPS
GROSSMAN, PLLC**

By: 
Randi Kassan
Gary M. Klinger
*Attorneys for Plaintiffs Randy Thomas and
Gabrielle Thomas*

Dated: May X, 203

CIPRIANI & WERNER PC

By: /s/ Jill Fertel
Jill H. Fertel
Attorneys for Defendant

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
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ROBERT MACMICHAEL individually,
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situated,

Plaintiff,

vs.

CLEVELAND BROTHERS EQUIPMENT
COMPANY INC.,

Defendant.

Case No. 2:23-cv-00328-WSS

**ORDER FOR TRANSFER AND
CONSOLIDATION**

IT IS HEREBY ORDERED THAT, after consideration of the Stipulation to Consolidate,
and good cause appearing:

1. The *MacMichael* Action (Case No. 2:23-cv-00328-WSS) is hereby transferred
from the U.S. District Court for the Western District of Pennsylvania to the U.S. District Court for
the Middle District of Pennsylvania.

2. The *MacMichael* Action and the *Thomas* (Case No. 1:23-cv-00501-JPW) Action
are hereby consolidated into the *Thomas* Action for all purposes, including pre-trial proceedings
and trial (the “Consolidated Action”).

3. All papers filed in the Consolidated Action shall be filed in this case number and
shall bear the following caption:

**IN RE: CLEVELAND BROTHERS
DATA INCIDENT LITIGATION**

Case No. 1:23-cv-00501-JPW

4. Counsel for Plaintiff MacMichael has conferred with Counsel for Plaintiffs Thomas
and, there being no objection thereto, all current deadlines in the related Actions shall be vacated.

5. Plaintiffs shall file and serve a Consolidated Class Action Complaint in this case number within 30 days after this Order approving consolidation.

IT IS SO ORDERED.

Dated: _____

United States District Judge